



FAIR POLITICAL PRACTICES COMMISSION

428 J Street • Suite 620 • Sacramento, CA 95814-2329
(916) 322-5660 • Fax (916) 322-0886

September 15, 2009

Thomas Smisek

REDACTED

Re: FPPC No. 07/102, Thomas Smisek

Dear Mr. Smisek:

This letter concerns a complaint we received in March 2007 regarding your possible violation of the conflict of interest provisions of the Political Reform Act, (the "Act").¹ The complaint alleged that you, as the Mayor of Coronado, violated the conflict of interest provisions in 2006 in connection with your interest in real property located in the Coronado Village.

Specifically, the complaint alleged that you participated in decisions, or used your official position to influence decisions, in 2006 related to the development of city property that was adjacent to the Coronado Village where you owned a condominium. The city was in the process of developing the property for a city-owned animal shelter. Your property was located within 500 feet of the proposed development project. The complaint alleged that you should have disqualified yourself from making, participating in making, or attempting to use your official position to influence any decisions related to the animal shelter project, and that you violated the Act's conflict of interest provisions by signing the memorandum of understanding ("MOU") between the city and the Coronado Village Homeowners Association ("CVHA").

Based on our review, we found that you did not violate the conflict of interest provisions of the Act when you signed the MOU, because you signed in your capacity as a CVHA homeowner, along with your wife, and not as a public official. With respect to governmental decisions that were made by the City of Coronado in connection with the animal shelter project, it appears that you abstained from voting or participating in any decision-making process related to the project. In addition, pursuant to our interview with your city manager, who signed the MOU on behalf of the city, you did not use your official position to influence the city manager or other city officials with respect to the project. The city manager stated that he signed the MOU only because you, who would normally sign such documents, had abstained from participating in any proceedings connected with the development of the animal shelter.

¹ The Political Reform Act is contained in Government Code sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

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Based on the above facts and circumstances, we have determined that the allegations in the complaint are unfounded, and our file has been closed. If you have any questions regarding this matter, please feel free to contact me at (916) 322-5660.

Sincerely

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Melodee A. Mathay
Staff Counsel IV
Enforcement Division